

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

TERRY LUTZ,

Plaintiff,

vs.

CHRISTOPHER MILLER; DEXTER
ETHANOL, LLC, an Iowa limited
liability company, TAMA ETHANOL,
LLC, an Iowa limited liability company;
and ALPHA HOLDINGS, LLC, an Iowa
limited liability company.

Respondents.

No. 4:09-cv-000135-RP-TJS

**DEFENDANTS' MOTION TO DISMISS
AND TO STAY DISCOVERY AND
REQUEST FOR ORAL ARGUMENT**

Pursuant to Rules 12(b)(6) and 9(b) of the Federal Rules of Civil Procedure and the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u-4, and for the reasons set forth in the Brief filed contemporaneously with this Motion and incorporated by reference herein, Defendants Christopher Miller ("Miller"), Dexter Ethanol, LLC ("Dexter"), Tama Ethanol, LLC ("Tama"), and Alpha Holdings, LLC ("Alpha") (collectively, "Defendants") move this Court for an order (1) dismissing with prejudice Plaintiff's Complaint and Jury Demand in its entirety for failure to state a claim upon which relief can be granted and (2) staying discovery while the Motion to Dismiss is pending.

Defendants also ask the Court to set the matter for oral argument.

Respectfully submitted,



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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that on June 2, 2009, I electronically filed the foregoing document with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to the following:

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